



STAFF REPORT

TO: Board of Commissioners

FROM: John D'Ornellas, Interim Harbor Manager

DATE: September 28, 2021

SUBJECT: **Public Hearing to Receive Input from the Community Regarding the Creation of District Based Election System**

Recommendation / Proposed Motion

- **Recommendation:** District Staff recommends the Board take the following actions:
 - Receive a report on the area creation process and permissible criteria to be considered to create voting area boundaries;
 - Conduct a public hearing to receive public input on voting area boundaries; and
 - Approve the timeline for transition.
- **Motion:** Move District Staff's recommendation and approve the timeline for transition.

Policy Implications

Port San Luis Harbor District, Resolution No. 21-02 Declaring the District's Intention to Transition from At-Large to District-Based elections by November 2022.

District Major Objective/Goal

Not applicable.

Fiscal Implications / Budget Status

Consultant fee for \$23,450.00.

Alternatives Considered

The following actions were considered but are not recommended at this time:

- None at this time.

Background

The Port San Luis Harbor District currently elects its Board through an at-large electoral system in which each Board member may reside anywhere within the District boundaries, is elected by the entire electorate, and the candidates with the most votes fill the open seats. This electoral system is known as the "multi-seat plurality electoral system."

The California Voting Rights Act (CVRA) allows for legal challenges alleging that an at-large system has resulted in racially polarized voting within a jurisdiction and seeking a court order that a

jurisdiction convert to a district-based election system. A district-based electoral system is one in which a jurisdiction is divided into separate geographic districts, each with one representative who resides in the district and is elected only by the voters residing within the district. In a district-based system, voters within each district may vote for only one candidate. “Racially polarized voting” under the CVRA means:

“Voting in which there is a difference, as defined in case law regarding enforcement of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.), in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate. The methodologies for estimating group voting behavior as approved in applicable federal cases to enforce the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.) to establish racially polarized voting may be used for purposes of this section to prove that elections are characterized by racially polarized voting.”

The Act amended Elections Code Section 10010 is an attempt to provide a “safe harbor” from Act litigation for agencies that choose to voluntarily transition to a district-based election system after receiving a threat of litigation. If an entity received a demand letter, the entity is given 45 days of protection from litigation to assess the situation. If within 45 days, the agency adopts a resolution declaring its intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action, then a potential plaintiff is prohibited from filing an action for an additional 90-day period. Under the Act, the public entity’s liability is capped at \$30,000¹ in reimbursement costs to the prospective plaintiff if it follows the process outlined in the Act.

On December 17, 2020, the District received correspondence from Robert Goodman, Attorney at Law, noticing a violation of the CVRA. The correspondence included a timeline of 45 days from receipt to adopt a resolution outlining the District’s intention to transition from at-large to district elections. As a result, on January 26, 2021, the Board of Commissioners adopted Resolution No. 21-02 which Declared the District’s intention to transition from at-large to district-based elections by November 2022.

On July 27, 2021, the Commission awarded Cooperative Strategies, a redistricting consultant, a contract for the completion of the creation and implementation of voting areas, ensuring the District is in compliance with the California Voting Rights Act (CVRA).

Discussion

On January 26, 2021, the Board of Commissioners adopted Resolution No. 21-02 which Declared the District’s intention to transition from at-large to district-based elections by November 2022. Elections Code Section 10010 provides that before any map or maps of the boundaries for the proposed areas are drawn, the District must conduct two (2) Public Hearings over a period of no more than thirty (30) days, at which time the public is invited to provide input regarding the composition of said area boundaries.

This is the first Public Hearing. The Public Hearing was noticed in the Tribune, posted at the District Office, on the District Website, and included in a District NewsFlash.

The purpose of this Public Hearing is to inform the public about the area creation process and to hear from the community on what factors should be taken into consideration in the formulation of area boundaries.

Adjusted annually for inflation.¹

The public is requested to provide input regarding communities of interest and other local factors that should be taken into consideration while drafting the maps. A *community interest* is a neighborhood or group that would benefit from being in the same area because of shared interests, views, or characteristics. Factors considered in establishing the voting areas are but are not limited to:

- Each area shall contain an equal number of inhabitants
- Drawn to comply with the Federal Voting Rights Act
- Compact and contiguous, as much as possible
- Follow man-made and natural geographic features, as much as possible
- Any other local considerations

Next Steps:

A second Public Hearing will take place at the October 26, 2021, Harbor Commission meeting, where public input will be sought and provide direction on the criteria to be considered in the drafting of the area maps. Following, the second Public Hearing, draft area maps will be created, and the draft area maps, along with the proposed election sequencing will be posted to the District website and available at the District office by March 2022.

The District is scheduled to conduct the third Public Hearing to continue seeking public input on the draft voting area scenarios on January 25, 2022.

The District is scheduled to conduct the fourth Public Hearing to continue public discussion of the draft voting area scenarios on February 22, 2022.

The District is scheduled to conduct the fifth and final Public Hearing to consider the change in the by-area election method and to select and adopt a preferred voting area map.

District staff and the demographer will then work with the County Elections Office to have the division maps integrated into the countywide voting system. The first by-division election will be held in November 2022.

Attachment: 1) Voting Area Process Presentation Slides – Cooperative Strategies